

Application No. 09/416,192

REMARKS

Claims 1-37 are pending. Claims 1-10 and 18-24 are withdrawn from consideration, and claims 11-17 and 25-37 stand rejected. Applicants respectfully request reconsideration of the rejections based on the following comments.

Rejections Over Joao

The Examiner rejected claims 11-17 and 25-37 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,283,761 to Joao (the Joao patent). With all due respect, the Examiner has not asserted a proper rejection over the Joao patent. Furthermore, the Joao patent does not disclose all of the elements of Applicants' claimed invention. Applicants respectfully request reconsideration of the rejections based on the following comments.

First, Applicants' note that the present application has a filing date of October 11, 1999 while the Joao patent has a filing date of December 31, 1999, which is after Applicants' filing date. The Joao patent is a continuation-in-part, but the Examiner did not assert that the parent applications supported the rejection. See MPEP 2136.02 and 2131.03. Thus, since the Joao patent has a later filing date, the rejection is not properly framed under section 102(e).

Furthermore, Applicants could not identify any analysis interaction algorithms that automatically evaluates and updates a patient's treatment protocol as disclosed and claimed by Applicants. This, even if the Joao patent is proper prior art, the Joao patent does not prima facie anticipate Applicants' claimed invention since the Joao patent does not disclose all of the features of Applicants' claimed invention. In fact, the only modification of treatment protocols that could be identified at column 20, lines 1-4 and column 26, lines 54-67 involve traditional evaluation and refinement of a treatment protocol by a health care professional. According to MPEP 707.07(d), grounds for rejection should be fully and clearly stated. The Examiner has fallen far short of establishing prima facie anticipation.

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Since prima facie anticipation has not been established by the Examiner, Applicants respectfully request withdrawal of the rejection of claims 11-17 and 25-37 under 35 U.S.C. § 102(e) as being anticipated by the Joao patent.

## CONCLUSIONS

In view of the foregoing, it is submitted that this application is in condition for allowance. Favorable consideration and prompt allowance of the application are respectfully requested.

The Examiner is invited to telephone the undersigned if the Examiner believes it would be useful to advance prosecution.

Respectfully submitted,



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